

AGREEMENT TO NOTIFY OFFICE OF LAWYER REGULATION OF OVERDRAFTS ON LAWYER TRUST ACCOUNTS

Whereas, lawyer trust accounts and lawyer fiduciary accounts, as defined in SCR 20:1.15(a), shall only be maintained in financial or investment institutions that agree to notify the Office of Lawyer Regulation (“the OLR”) of the presentation of a properly payable instrument against a lawyer trust account containing insufficient funds;

Now, therefore, the undersigned lawyer or law firm and the undersigned financial or investment institution agree as follows:

- a) The undersigned lawyer or law firm acknowledges that, pursuant to SCR 20:1.15(b) and SCR 20:1.15(j), it is required to hold in trust, separate from the lawyer’s own property, that property of clients and third persons that is in the lawyer’s possession in connection with a representation or when acting in a fiduciary capacity. ***The undersigned lawyer or law firm further represents that the account(s) identified below, or attached hereto, by title(s) and account number(s) is/are account(s) subject to the overdraft notification requirements of SCR 20:1.15(h).*** The undersigned lawyer or law firm further acknowledges that no lawyer trust account(s) shall be maintained in any institution if the institution does not agree to provide the overdraft report required by this Agreement and SCR 20:1.15(h)(1).
- b) The undersigned financial or investment institution agrees to report to the OLR any properly payable instrument that is presented against the lawyer trust account(s) identified below, or attached hereto, whenever the account(s) contain(s) insufficient funds to pay such instrument, regardless of whether or not the instrument is honored. Such report shall be in the format described in SCR 20:1.15(h)(4), and shall be made to the OLR at the address listed below, simultaneously with the customary overdraft notice to the depositor or investor.
- c) The undersigned lawyer or law firm expressly consents to the below-named financial or investment institution providing such notice to the OLR as a condition of receiving a license to practice law in the State of Wisconsin. The undersigned lawyer or law firm also agrees to pay for the financial or investment institution’s reasonable costs of producing the reports and records required under this Agreement.
- d) Neither this Agreement, nor SCR 20:1.15(h), creates any claims against the financial or investment institution or its officers, directors, employees and agents for failure to provide a trust account overdraft report, or for complying with SCR 20:1.15(h) or this Agreement.
- e) This Agreement shall be binding on the successors or assigns of the financial or investment institution that is identified below.
- f) In the event that the law firm changes its name, any successor firm using the trust/fiduciary account(s) that is/are identified below, or attached hereto, shall be bound by the terms of this Agreement, in light of the requirements specified in **Paragraph a**, above.

Name of Lawyer or Law Firm

Name of Financial/Investment Institution

Street Address/P.O. Box

Street Address/P.O. Box

City, State, Zip Code

City, State, Zip Code

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Telephone Number

Telephone Number

Signature of Managing Lawyer

Signature of Authorized Person

Name of Managing Lawyer (Print or Type)

Name of Authorized Person (Print or Type)

Dated: _____

Dated: _____

Contact Person at Law Firm

Account Name

Name of Former Law Firm

Account Number

☐ Check Box if Former Firm is Defunct

(Attach List of any additional accounts to this form.)

**OFFICE OF LAWYER REGULATION – TRUST ACCOUNT PROGRAM
110 EAST MAIN STREET, SUITE 315, MADISON, WI 53703-3383
TOLL FREE TELEPHONE NO.: 877-315-6941 (EXT. 2)**

**ATTACH VOIDED, PRE-PRINTED
IOLTA CHECK TO OLR COPY**



INSTRUCTIONS FOR OVERDRAFT NOTIFICATION AGREEMENT

1. Insert the full name of the lawyer or law firm, along with the address and telephone number of the lawyer/law firm.
2. Insert the full name of the financial/investment institution, along with its address and telephone number.
3. Insert the name of a contact person at the law firm in the lower left corner of the form. The contact person should be the individual in the law firm to whom OLR staff should initially address inquiries regarding the firm's trust and/or fiduciary account(s), including questions regarding the Agreement and any overdrafts on the account. The person need not be an attorney, but should be able to refer OLR staff to the appropriate attorney within the firm who would be able to respond to any concerns that may arise regarding the trust and/or fiduciary account.
4. If the lawyer/law firm formerly operated under a different name, insert the name of the former firm in the lower left corner of the form. If the former firm is no longer operating, please check the box indicating that the "Former Firm is Defunct." If this section does not apply to the firm, insert "N/A" (not applicable) in the line where the former firm's name would be inserted.
5. In the lower right corner of the form, insert the name of the account as it appears on the account's checks and the account's signature card (or whatever similar record the financial/investment institution maintains).
6. Insert the account number immediately beneath the account name.

NOTE: If the Agreement is intended to cover more than one account, a separate listing of the accounts and account numbers must be attached to the Agreement. That listing should include the name of each account as it appears on the account's checks and the account's signature card (or whatever similar record the financial/investment institution maintains).

7. The lawyer/law firm must obtain the signature of a representative of the financial/investment institution. The representative of the institution should also print his/her name beneath the signature and insert the date that he/she executes the Agreement.

NOTE: The financial/investment institution is not responsible for completing or for filing the Agreement with the OLR. Consequently, mailing the Agreement to the financial institution, even with instructions to forward the Agreement to the OLR after execution, may be inadequate to assure that the paperwork is properly filed.

8. Make two photocopies of the fully completed, fully executed Agreement.
9. Provide the financial/investment institution with the original of the executed Agreement.
10. Maintain one copy of the executed Agreement with the law firm's trust/fiduciary account records.
11. If the trust account is an **IOLTA** account, attach a **VOIDED, PRE-PRINTED IOLTA TRUST ACCOUNT CHECK (NOT A STARTER CHECK)** to the lower right hand side of the second copy of the Agreement. Forward that copy to the OLR at the address identified in the lower left corner of the Agreement.

IMPORTANT: **DO NOT ATTACH CHECKS FOR FIDUCIARY ACCOUNTS OR FOR TRUST ACCOUNTS ESTABLISHED FOR AN INDIVIDUAL CLIENT OR MATTER.**

FILING REQUIREMENTS: In order to comply with SCR 20:1.15(h) the Overdraft Notification Rule, a new **Overdraft Notification Agreement** should be completed and filed with the OLR and the financial/investment institution whenever a new trust or fiduciary account is established.

Existing accounts that are already covered by an Agreement need not be updated; however, if an existing trust or fiduciary account is not already subject to an Overdraft Notification Agreement, an Agreement must be filed immediately.

PROPER IDENTIFICATION OF IOLTA TRUST ACCOUNTS

SCR 20:1.15(b)(2) requires a trust account to be identified as a “**Client Account**,” a “**Trust Account**,” or with “words of similar import.” The rule also indicates that the account must be so identified on all account records, including signature cards, monthly statements, checks, and deposit slips. The rule further specifies that an acronym, such as “IOLTA,” “IOTA,” or “LTAB,” without further elaboration, does not clearly designate the account as a client account or trust account.

The “Trust Account” referred to in this rule is the pooled, interest-bearing checking account in which funds belonging to various clients, third parties and/or the firm are held, i.e., the firm’s IOLTA account. Please note that this naming requirement does not apply to fiduciary accounts (accounts set up for individual clients or client matters).

The following account names **COMPLY** with the requirements of SCR 20:1.15(b)(2):

- ◆ Law Office of John Jones – Client Trust Account
- ◆ Law Office of John Jones – Client Account
- ◆ Law Office of John Jones – IOLTA Trust Account
- ◆ Law Office of John Jones – WISTAF Trust Account

IMPROPER IDENTIFICATION OF IOLTA TRUST ACCOUNTS

1. Entitling the account **solely** with the name of the lawyer or law firm **DOES NOT COMPLY** with SCR 20:1.15(b)(2). For example, the account name “Law Office of John Jones” does not identify the account as a trust account. The name of the account must include the words “Trust Account,” “Client Account,” or other similar words. The following account name would be satisfactory: “Law Office of John Jones – Client Trust Account.”

2. Furthermore, **the following account names**, without further elaboration as to the nature or ownership of the account, **DO NOT COMPLY** with the requirements of SCR 20:1.15(b)(2):

- ◆ Law Office of John Jones – IOLTA Account
- ◆ Law Office of John Jones – WISTAF Account
- ◆ Law Office of John Jones – Wisconsin Trust Account Foundation Account
- ◆ Law Office of John Jones – LTAB Account

INSTRUCTIONS

*If your trust account is not identified as a “**Trust Account**,” a “**Client Account**,” or with similar language, you have not complied with SCR 20:1.15(b)(2), and must take steps to immediately correct this. Failing to do so could result in the seizure or garnishment of client funds by a creditor, or in the filing of liens against the Trust Account.*

- 1) **Contact your financial institution** immediately to **re-title the account**, and **Confirm** that the account is properly identified on the **Signature Card** and the monthly **Bank Statement**.

*(NOTE: If the financial institution requires the creation of a new account in order to accomplish the name change, a **New Agreement must be executed and filed with OLR and the financial institution.**)*


- 2) **Obtain new Trust Account Checks and Deposit Slips**, if the existing ones fail to properly identify the account.
- 3) **Provide OLR with a voided, pre-printed IOLTA Trust Account Check (not a starter check)**, bearing the account’s new name.

PROPER PLACEMENT OF ACCOUNT NAME ON TRUST ACCOUNT CHECKS


SCR 20:1.15(f) requires trust account checks to be pre-printed and pre-numbered. The rule further specifies that the name and address of the lawyer or law firm and the name of the account must be printed in the upper left corner of the check.

[See, SCR 20:1.15(f)(1)e(1)].

PROPER CHECK FORMAT

LAW OFFICE OF JOHN JONES CLIENT TRUST ACCOUNT 1234 MAIN STREET, SUITE 100 ARCADIA, WI 54321	2022 ← (PROPER PLACEMENT OF ACCOUNT NAME) Date _____ Pay to the Order of: _____ \$ _____ _____ Dollars  We-Got Money Bank Memo: _____ "0002022" " :07500028 " ":3059 7992 "
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IMPROPER CHECK FORMAT

LAW OFFICE OF JOHN JONES 1234 MAIN STREET, SUITE 100 ARCADIA, WI 54321	2022 Date _____ Pay to the Order of: _____ \$ _____ _____ Dollars  We-Got Money Bank Memo: _____ "0002022" " :07500028 " ":3059 7992 "
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CLIENT TRUST ACCOUNT
↑
(IMPROPER PLACEMENT OF ACCOUNT NAME)